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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/939,717 | 08/28/2001 | Pasi Lahti | 108347-00009 | 2909 |

32294 7590 05/03/2005

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| EXAMINER |
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ABRISHAMKAR, KAVEH

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| ART UNIT | PAPER NUMBER |
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2131

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 09/939,717 | Applicant(s) LAHTI ET AL. | |
| | Examiner Kaveh Abrishamkar | Art Unit 2131 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the communication filed on January 27, 2005. Claims 1-10 were originally received for consideration. No claims were amended, cancelled, or added.

Response to Arguments

2. Applicant's arguments received on January 27, 2005, were fully considered but are not persuasive for the following reasons:

Regarding independent claim 1, the applicant argues that the combination of the cited prior art, Hodges et al. (U.S. Patent 6,305,423) and Clapton et al. (U.S. Patent 6,192,237), is made with improper hindsight reasoning. This argument is not found persuasive. The applicant argues that Hodges does not teach that they may contain anything but Internet (i.e. TCP/IP) connections. Hodges states "any of a variety of computer networking connection methods are also within the scope of the preferred embodiment" (column 6 lines 35-46), and further states that any connection can be used that "assigns client computer an address for allowing the transmission of information to and from client computer" (column 6 lines 43-46). There is not a statement that limits the connection to TCP/IP connections as suggested by the applicant. Therefore, though Hodges does not explicitly mention that the virus

signatures updates are sent via a signaling channel of a mobile network, the combination with Clapton is believed to be proper. Clapton discloses a system wherein in mobile units (mobile telephones) can send and retrieve data via Unstructured Supplementary Services Data (USSD) messages or Short Message Service (SMS) messages on a signalling channel on a GSM network (column 5 line 47 – column 6 line 13). Hodges discusses an embodiment of his virus signature update system which deals with the Internet and dial-up connections but states “any of a variety of computer networking connection methods are also within the scope of the preferred embodiment” (column 6 lines 35 – 46). Wireless communication is a well-known networking connection medium, and therefore, it is obvious that the virus signature update system presented by Hodges can be extended to a wireless environment. Sending the update on a signaling channel would have also been obvious in light of Clapton’s statement, “another benefit for the mobile system is that by the use of USSD a signaling channel can be used, instead of a traffic channel” and further he states, “the use of a signalling channel is therefore a much more efficient usage of the spectrum capacity” (column 5 lines 35 – 46). Therefore it would have been obvious to combine the virus update mechanism in a wireless environment of Hodges with the method of sending updates over a signalling channel using USSD messages of Clapton, in order to be able to transmit virus updates to wireless clients in a GSM network while maintaining a more efficient usage of the spectrum capacity.

Furthermore, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

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any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Therefore, the examiner respectfully asserts that the combination of the reference is proper, and the rejection given for claims 1-10 is respectfully maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaveh Abrishamkar whose telephone number is 571-272-3786. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KA
04/25/05


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
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